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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.08.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.32166 of 2025
and
W.M.P.Nos.36056 & 36058 of 2025

Sakthivel Venkatesan,
Proprietor of Sakthi Engineering Products,
No.6/363, Thinnapatty Main Road,
Thinnapatty, Salem, Tamil Nadu - 636305.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Omalur Assessment Circle,
Salem Zone - 2, Omalur, Salem,
Tamil Nadu - 636 455.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in GSTIN No:33BXVPS2685A1Z4/2018-19 on the files of the respondent and quash the impugned order dated 06.11.2024 with the reference

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No.ZD331124032719K for the FY 2018-19 as arbitrary.

For Petitioner : Mr.R.Suryaa

For Respondents : Ms.P.Selvi
Government Advocate
(Taxes)

ORDER

Ms.P.Selvi, learned Government Advocate (Taxes), takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 06.11.2024 passed by the respondent for the AY 2018-19 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice on 01.03.2022 to the petitioner by uploading the same in the GST portal without serving physical copy of the same to the petitioner. Therefore, the petitioner was unaware of the same and hence failed to submit its reply. Since the

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petitioner failed to file reply to the show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order and the same was also uploaded in the GST portal. Further, the learned counsel would submit that the impugned assessement order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that pursuant to the impugned order, entire disputed tax has been recovered from the Electronic Credit Ledger of the Petitioner.

4. The learned Government Advocate (Taxes) for the respondent submitted that intially show cause notice was issued to the petitioner and since the petitioner failed to submit its reply, assessment order came to be passed. However, she would fairly submit that already entire disputed tax has been recovered from the petitioner and hence he prayed for appropriate orders.

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5. Heard both sides. Perused the records.

6.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them.

7. No doubt sending notice by uploading in portal is a sufficient service, but, the Officer who is sending the repeated reminders, inspite of the fact that no response from the petitioner to the show cause notices etc., the Officer should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise it will not be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an *ex parte*

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order by fulfilling the empty formalities will not serve any useful purpose and the same will only pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal and this Court as well. Thus, when there is no response from the tax payer to the notice sent through a particular mode, the Officer who is issuing notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

8. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. Hence, this Court is inclined to set-aside the impugned order, by issuing the following directions:-

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i) The impugned assessment order passed by the respondent dated 06.11.2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

iv) Thereupon, the respondent is directed to consider the reply and shall issue a 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

9. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

25.08.2025

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Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

The Assistant Commissioner (ST),
Omalur Assessment Circle,
Salem Zone - 2, Omalur, Salem,
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